

## **Selected Michigan Compiled Laws**

### **8-01 APPOINTMENT AND COMPENSATION**

#### **A. Circuit Court**

##### **MCL 46.12A. County boards of commissioners; insurance, pension or retirement benefits for county employees.**

(3) A circuit court stenographer is eligible for membership in, and the benefits of, a pension or retirement benefit under a plan established pursuant to this section, or a social security plan established by the court or 1 of the counties that pays a portion of the compensation of a circuit court stenographer.

##### **MCL 600.1101. Court reporters or certified court recorders number**

Sec 1101. Each circuit court in this state shall have as many court reporters or certified court recorders as it has judges.

##### **MCL 600.1104. Appointment, oath of office; appointment in more than 1 circuit**

Sec. 1104. Every reporter or recorder shall be appointed by the governor after having first been recommended by the judge or judges of the court to which he or she is appointed and he or she is an officer of that court. Before entering upon the duties of his or her office he or she shall take and subscribe the constitutional oath of office which shall be filed in the office of the secretary of state. No person may be appointed a reporter or recorder for more than 1 judicial circuit unless he or she personally performs the duties of reporter or recorder in each of the circuits for which he or she has been appointed.

##### **MCL 600.1105. Term, suspension**

Sec. 1105. Every reporter or recorder shall hold office at the pleasure of the governor unless suspended for incompetency or misconduct, by the court to which he or she is appointed. In the case of a suspension, the reporter or recorder shall cease to hold the office of reporter or recorder unless by order of the court his or her suspension is rescinded. If the suspension is not rescinded within 30 days of the order of suspension, the office shall become vacant.

##### **MCL 600.1106. Vacancy; temporary absence; payment of salary**

Sec. 1106. In case of a vacancy in the office of the reporter or recorder from any cause of a permanent nature, the appointment shall be made in accordance with section 1104, after notice has been given the governor of the vacancy by the chief or only judge of the circuit or the court administrator.

In case of a temporary absence of the reporter or recorder, the reporter or recorder shall appoint some competent person who has been approved by the judge to act as a reporter or recorder pro tempore and who shall be paid by the reporter or recorder in whose place he or she acts. If the temporary absence of the reporter or recorder is due to illness, the reporter or recorder pro tempore shall be paid out of the county treasury, such sum as may be approved by the county board of commissioners or in counties having a board of auditors by that board. However, such payment shall not exceed payment for 30 calendar days in any 1 calendar year.

**MCL 600.1107. Additional reporters or recorders**

Sec. 1107. Every reporter or recorder may appoint 1 or more assistants who have first been approved by the circuit judge or judges and who shall qualify as reporters or recorders as prescribed in this statute. The assistant or additional reporter or recorder shall have the power to act in the place of the reporter or recorder and shall be paid by the reporter or recorder. The reporter or recorder or circuit judge shall have the power to revoke the appointment at any time. Whenever the chief or only judge of any judicial circuit deems it necessary for the dispatch of business of the court he or she may authorize the reporter or recorder to employ 1 or more temporary assistants who shall receive compensation to be paid by the county, after the judge of the court certifies to the reasonableness of the compensation.

**MCL 600.1114. Salary, payment by counties**

Sec. 1114. (1) The reporter or recorder of each circuit shall receive as compensation for his or her services the salary specified in this chapter payable in monthly installments out of the treasuries of the counties composing the circuit of which he or she is the reporter or recorder upon the order of the clerk of the court or board of county auditors who are authorized and required to draw the orders. The county treasurer shall pay an installment upon presentation of an order.

**MCL 600.1115. Apportionment of salary in multi-county circuits**

Sec. 1115. In every circuit composed of more than 1 county, unless some other method of apportionment is prescribed in this act to make up the salary of the reporter or recorder, each county board of commissioners in the circuit shall appropriate annually such portion of the amount of the salary as shall be assigned to it by the chief or only circuit judge in proportion to the number of civil actions commenced in the circuit court for those counties respectively during the preceding year.

It shall be the duty of the chief or only circuit judge or each circuit composed of more than 1 county on the first day of January of each year or as soon thereafter as possible, to apportion the amount of the salary to be paid by each county in his or her circuit as provided in this section and to notify the clerk of each county in the circuit of the proportion to be paid by that county. If there is only 1 county in the circuit, the salary of the reporter or recorder shall be paid out of the treasury of that county in the manner prescribed in section 1114(1).

**MCL 600.1116. Membership in retirement or social security plan**

Sec. 1116. All reporters or recorders shall be eligible for membership in and benefits of the retirement or the social security plan by the county or any 1 of the counties which pays a portion of his or her salary.

**MCL 600.1121. Salary; first circuit**

Sec. 1121. In the first circuit, the stenograph shall be paid an annual salary of \$12,000.00.

*Editor's Note: The annual salary for all circuit court reporters or recorders (MCL 600.1122 and MCL 600.1124 through MCL 600.1162h) shall be \$12,000.00.*

**MCL 600.1162i. Stenographer; annual salary**

Section 1162i. In a judicial circuit created after May 1, 1978, the stenographer shall be paid an annual salary of \$12,000.00.

**MCL 600.1168. Supplemental salaries**

Sec. 1168. The county board of commissioners of the counties comprising any judicial circuit may appropriate annually from the general fund additional amounts to supplement the salary of any reporter or recorder.

**MCL 600.1171. Expenses**

Sec. 1171. The reporters or recorders shall be entitled to receive in addition to the salary provided for in this act the necessary and actual expenses incurred in attending court in the counties other than the county in which the reporter or recorder resides.

Upon filing with the clerk of the county in which the reporter or recorder has attended a sworn statement that the money was expended by the reporter or recorder and that the expenditures were necessary in the performance of his or her service in that county, the clerk shall draw an order for payment and the treasurer of the county shall pay the ordered sum to the person entitled to it on the presentation of an order for payment properly drawn by the clerk. If the reporter or recorder does not reside within the circuit to which he or she is appointed, he or she shall be considered for the purpose of this section to reside in the county where the chief or only circuit judge of that circuit resides.

**MCL 600.1175. Wayne and Kent counties; officers for reporters or recorders**

Sec. 1175. In the counties of Wayne and Kent, the county auditor shall provide a suitable office for the use of the reporters or recorder contiguous to the office of the clerk of the county.

**MCL 600.1179. Assignment of reporters or recorders**

Sec. 1179. Upon the request of the judge to which the reporter or recorder is assigned the court administrator may assign a report or recorder to a circuit other than the circuit to which the reporter or recorder was appointed. The reporter or recorder shall continue to receive his or her salary from the circuit to which he or she was appointed. If the salary listed in this chapter for the circuit visited is higher than the regular salary of the reporter or recorder, the circuit visited shall pay the difference to the reporter or recorder.

**B. District Court**

**MCL 600.8602. Appointment of recorders or reporters**

Sec. 8602. (1) Each judge of the district court shall appoint his or her own reporter or recorder.

(2) Pursuant to supreme court rule, the chief or only judge of the district may appoint additional certified recorders or reporters. Appointed additional recorders or reporters shall perform the duties and functions of recorder or reporter when so assigned and shall perform other functions and duties as may be assigned by the chief or only judge of the district or the court administrator.

**MCL 600.8615. Compensation**

Sec. 8615. The annual salary of district court recorders or reporters appointed pursuant to section 8602(1) shall be not less than \$8,000.00 per year.

**MCL 600.8621. Compensation to be paid by district control unit, proportional contributions, recording devices and supplies**

Sec. 8621. (1) District court recorders and reporters shall be paid by each district control unit. In districts consisting of more than 1 district control unit, each district control unit shall contribute to the salary in the same proportion as the number of cases entered and commenced in the district control unit bears to the number of cases entered and commenced in the district, as determined by the judges of the district court under rules prescribed by the supreme court.

(2) The state shall purchase and pay for a recording device for each district or municipal judge, but the replacement, maintenance, and repair of the recording devices and the cost of supplies shall be paid for by the district or municipality. The recording devices shall be the property of the district or municipal court.

**MCL 600.8625. Expenses, procedure for payment**

Sec. 8625. The recorders or reporters of district courts composed of more than 1 county shall be entitled to receive, in addition to the salary provided for in this act, their necessary and actual expenses incurred in attending court in the counties of their district other than the county in which the recorder or reporter resides. Upon filing with the clerk of the district control unit in which the recorder or reporter has attended court a sworn statement that the expenses were incurred by the recorder or reporter and that the expenditures were necessary in performing such services, the district control unit treasurer shall pay such sum to the person entitled to it on presentation of an order properly drawn by the clerk, which order the clerk shall draw on receiving the sworn statement.

**MCL 600.8626. Residence defined**

Sec. 8626. For the purposes of this chapter, the residence of a recorder or reporter who does not reside in the district in which he or she serves shall be deemed to be the same as the residence of the district judge for whom he or she serves.

**MCL 600.8631. Fees for transcripts ordered by the parties or district or circuit judge; recovery as taxable costs**

Sec. 8631. (1) A district court recorder or reporter shall be entitled to receive for a transcript ordered by any person the same fees as provided by law for circuit court reporters or recorders. For a transcript ordered by the district judge or a circuit judge, recorders or reporters shall be entitled to receive from the district control unit the same compensation.

(2) The amount of recorder's or reporter's fees paid shall be recoverable as part of the taxable costs by the prevailing party in a motion or on appeal.

## **C. Probate Court**

### **MCL 600.835. Official court reporters or certified recorders**

Sec. 835. (1) The probate judge or chief probate judge of any county or probate court district may appoint, and in counties having a population of 50,000 or more shall appoint, 1 or more official court reporters or certified recorders of the probate court, at a reasonable salary fixed by the county board of commissioners. The reporters or recorders so appointed shall take and subscribe the constitutional oath of office, which shall be filed with the county clerk of the county.

(2) The reporter or recorder serving in a probate court district shall be entitled to receive, in addition to the salary provided for in this section, the necessary and actual expenses incurred in attending court in the county other than the county in which the reporter or recorder resides. Upon filing with the clerk of the county in which the reporter or recorder attended court a sworn statement that the expenses were incurred by the reporter or recorder and that the expenditures were necessary in performing the services, the clerk shall draw an order for payment and upon presentation of that properly drawn order, the treasurer of the county shall pay the ordered sum to the person entitled to the payment. If the reporter or recorder does not reside within the probate court district in which he or she serves, he or she shall be considered for the purpose of this subsection to reside in the county where the probate judge of that district resides.

### **MCL 600.839. Conflicting employment, probate court judges and employees**

Sec. 839. (1) A probate judge, probate register, or employee of the probate court shall not be:

- (a) A fiduciary or appraiser of an estate under the jurisdiction of the probate court in the county or probate court district in which he is a probate judge, probate register, or employee.
- (b) An attorney or counsel in an action or matter which may depend upon, or relate to, a sentence or order made or entered by the probate judge in the county or probate court district in which he is a probate judge, probate register, or employee.
- (c) An attorney or counsel for or against a fiduciary appointed under the jurisdiction of the probate court in the county or probate court district in which he is a probate judge, probate register, or employee, in an action or proceeding brought by or against the fiduciary as such or in any action or proceeding relating to the official conduct of that fiduciary.

(3) A clerk or employee of the probate court may not be an appraiser, referee, or divider of an estate which is under the jurisdiction of the probate court in the county or probate court district in which he is a clerk or employee.

**D. Other**

**MCL 725.201. Compensation of reporters or recorders of a court of record other than circuit courts**

Sec. 1. Reporters or recorders who are officers of a court of record, having general criminal jurisdiction, other than circuit courts, shall receive the same compensation received by circuit court reporters or recorders in the circuit where the court of record is located. Such compensation shall be audited and paid in the same manner and by the same authority as in the case of the compensation received by such circuit court reporters and recorders.

**MCL 600.1491. Compensation and fees of freelance reporters/recorders or firms**

Sec. 1491. (2) A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm shall not do any of the following:

(a) Give, directly or indirectly, any incentive, reward, or anything else of value to attorneys, clients, or their representatives or agents, except for nominal items that do not exceed \$25.00 per transaction or \$100.00 in the aggregate per recipient each year.

(b) Charge more than  $\frac{2}{3}$  of the price of an original transcript for a copy of that transcript.

## **8-02 GENERAL DUTIES**

### **A. General**

#### **MCL 600.2159. Parties as witnesses; depositions; comment on failure of criminal defendant to testify**

Sec. 2159. On the trial of any issue joined, or in any matter, suit or proceeding, in any court or on any inquiry arising in any suit or proceeding in any court, or before any officer or person having by law, or by consent of parties, authority to hear, receive, and examine evidence, the parties to any such suit or proceeding named in the record, and persons for whose benefit such suit or proceeding is prosecuted, or defended, may be witnesses therein in their own behalf or otherwise, in the same manner as other witnesses, except as hereinafter otherwise provided; and the deposition of any such party or person may be taken and used in evidence under the rules and statutes governing depositions, and any such party or person may be proceeded against and compelled to attend and testify, as is provided by law for other witnesses. No person shall be disqualified as a witness in any civil or criminal case or proceeding by reason of his interest in the event of the same as a party or otherwise or by reason of his having been convicted of any crime; but such interest or conviction may be shown for the purpose of affecting his credibility. A defendant in any criminal case or proceeding shall only at his own request be deemed a competent witness, and his neglect to testify shall not create any presumption against him, nor shall the court permit any reference or comment to be made to or upon such neglect.

### **B. Circuit Court**

#### **MCL 600.1111. Duties, supervision**

Sec. 1111. The reporter or recorder shall perform the duties assigned by the rules of the supreme court, and by the court to which he or she is appointed, under the supervision of a judge of the court to which he or she is appointed.

### **C. District Court**

#### **MCL 600.8331. Record of proceedings**

Sec. 8331. All proceedings in the district court, except as otherwise provided by law or supreme court rule, shall be recorded as provided in 8611.

**MCL 600.8341. Appeals from district court; written transcript of record**

Sec. 8341. Appeals from the district court shall be on a written transcript of the record made in the district court or on a record settled and agreed to by the parties and approved by the court.

**MCL 600.8601. District court certified recorder or reporter; additional functions and duties**

Sec. 8601. There shall be not less than 1 district court certified recorder or reporter for each judge of the district court who, in addition to acting as official court recorder or reporter, may act as secretary to the district court judge and perform other functions and duties as may be required by rule of the supreme court.

**MCL 600.8611. Recording of proceeding; recording devices**

Sec. 8611. All proceedings in the district court which are to be recorded under section 8331 shall be recorded by the district court recorder by the use of recording devices approved by the state court administrator, or taken by the district court reporter.

**MCL 600.8635. Verbatim records of preliminary examinations, filing; costs of examinations**

Sec. 8635. (1) An original and copy of the verbatim record of all preliminary examinations in which the defendant is bound over to the circuit court for further proceedings shall be reduced to writing by the district court recorder or reporter when ordered by the circuit court and upon completion of the verbatim record shall be filed with the clerk of the circuit court or as directed by the circuit court. An original of the verbatim record of other matters as may be required by supreme court rule shall be reduced to writing by the district court recorder or reporter and upon completion of the verbatim record shall be filed with the clerk of the district court or as directed by the district court. The county shall pay the costs of transcribing preliminary examinations in accordance with the schedule provided in section 8631.

(2) If a transcript of a trial or other proceeding is ordered other than for filing in the case file, the district court recorder or reporter also shall prepare and shall file a certified copy of the transcript in the case file at the expense of the person ordering the transcript unless a copy has been filed with the court, unless the circuit court has a copy pursuant to subsection (1), or unless the chief judge of the district court orders otherwise in an order filed in the case file.

## **D. Probate Court**

### **MCL 600.836. Deputy registers, clerks, reporters and recorders, allocation of duties**

Sec. 836. The probate judge or chief probate judge may allocate the duties of the deputy registers, clerks, and reporters or recorders, and may combine the title and powers in any 1 or more persons.

### **MCL 600.859. Taking of testimony**

Sec. 859. (1) The following testimony before a probate judge shall be taken by an official court reporter or by an official court recorder on a recording device approved by the state court administrator:

- (a) Testimony in contested matters.
- (b) Testimony in matters pertaining to the admission to a hospital or other facility for mentally ill or developmentally disabled persons.
- (c) Testimony in matters pertaining to persons having a contagious disease.
- (d) Testimony in other matters if requested by an interested party.
- (e) Testimony and other proceedings required by supreme court rule.

(2) In matters not governed by subsection (1), testimony before a probate judge, probate register, or deputy probate register may be given orally without a record being made of the testimony.

## **E. Circuit Court - Family Division**

### **MCL 712A.17. Hearings; jury; bond; legal counsel to represent child**

Sec. 17. (1) The court may conduct a hearing other than a criminal hearing in an informal manner. The court shall require stenographic notes or another transcript to be taken of the hearing.

### **MCL 712A.17a. Record of hearing, tape recordings, transcription**

Sec. 17a. In any case in which a record of the hearing is kept by a recording device, no transcription need be made of the hearing in the absence of a request by an interested party. The tape of the hearing shall be stored as a permanent record of the court.

**F. Freelance Reporters/Recorders**

Any reporter or recorder under contractual agreement is subject to the statutory and court rule requirements for certification and for producing transcripts and maintaining exhibits as well as the following:

**MCL 600.1492.**

(1) A court reporter, court recorder, or stenomask reporter shall do all of the following in the performance of his or her duties:

(a) Deliver a transcript or statement of facts to a client or court in a timely manner as determined by law, by court order, or by agreement of the parties.

(b) Produce an accurate transcript or statement of facts.

(c) Produce complete transcripts or statements of facts, unless an excerpt of a transcript is authorized by court order, agreement of the parties, or request of a party.

(d) Before accepting an assignment as an independent contractor or employee to provide court reporting or recording services, request information from the person, employer, or entity engaging his or her services as to the existence and nature of the contract between the person, employer, or entity and the client to confirm that the contract is not a blanket contract in violation of section 1491(1)(b). A person, employer, or entity who is party to a blanket contract and who knowingly provides false information in reply to an inquiry required under this subdivision shall be considered to have committed an act that is grounds for discipline or censure under section 1493. This subdivision does not apply to contracts for court reporting or recording services for the courts, agencies, or instrumentalities of local units of government, this state, or the United States.

(e) Advertise or represent truthfully that he or she is a certified court reporter, court recorder, or stenomask reporter and that only a certified individual will be making the record.

(f) Charge all parties or their attorneys to an action the same price for an original transcript or statement of facts and charge all parties or their attorneys the same price for a copy of a transcript or statement of facts or for like services performed in an action.

(g) Stay "on the record" during a deposition unless agreed to by all parties or their attorneys or unless otherwise ordered by the court.

## **8-03 FEES**

### **A. General**

#### **MCL 600.2501. Fees; allowance**

Sec. 2501. For the services mentioned in this chapter, hereafter done or performed in the several courts in this state, by the officers thereof, or in any proceeding authorized by law, the fees hereinafter prescribed shall be allowed.

#### **MCL 600.2504. Fees; special provisions**

Sec. 2504. The allowance of any fees by this chapter, shall not apply to any case where special provision is otherwise made by law for any particular service, but the fees for such service shall be such as are provided in the statute requiring the service, or providing the compensation thereof.

#### **MCL 600.2507. Fees; state officers, certified copies of certain documents**

Sec. 2507. The secretary of state, the auditor general, the state treasurer and the attorney general may require searches in the respective offices of each other and in the offices of the clerks of any court of record or municipal court, or in the office of a register of deeds, for any papers, records, or documents necessary to the discharge of their respective duties, and may obtain certified copies and certified extracts of such papers, records or documents without the payment of a fee or charge.

#### **MCL 600.2510. Page, definition**

Sec. 2510. (1) When used as a measure for computing fees or compensation, "page" is defined as follows: a page shall consist of 25 lines written on paper 8-1/2 by 11 inches in size, prepared for binding on the left side, with 1-3/8 inch margin on the left side and 3/8 margin on the right side. Typing shall be 10 letters to the inch.

(2) A page prepared in accordance with the format prescribed by the state court administrative office shall be counted, billed, and paid for a full page.

#### **MCL 600.2513. Fees; excessive amount prohibited**

Sec. 2513. A judge of any court, sheriff, bailiff, district court magistrate, or other officer, or other person except attorneys at law to whom any fees or compensation shall be allowed by law for any service, shall not take or receive any other or greater fee or reward for his service, but such as is or shall be allowed by the laws of this state.

**MCL 600.2516. Fees; for services actually rendered**

Sec. 2516. No fee or compensation allowed by law, shall be demanded or received by any officer or person for any service, unless such service was actually rendered by him; but this section shall not prevent any officer from demanding any fee herein allowed for any service of which he is entitled by law to require the payment previous to rendering such service.

**MCL 600.2519. Fees; violation, misdemeanor, civil liability, forfeiture of office**

Sec. 2519. A violation of either section 2513 or 2516 shall be deemed a misdemeanor; and the person guilty thereof shall be liable to the party aggrieved for treble the damages sustained by him, and such violation shall be a cause for forfeiture of office.

**MCL 600.2522. Fees; taxation for services actually rendered**

Section 2522. No fee shall be taxed for services as having been rendered by any attorney, clerk, sheriff, or other officer, in the progress of a cause, unless such service was actually rendered, except when otherwise expressly provided.

**MCL 600.2525. Fees; receipt, liability for refusal**

Sec. 2525. Every officer, upon receiving any fees for any official duty or service, shall, if required by the person paying the same, make out in writing and deliver to such person, a particular account of such fees, specifying for what they respectively accrued, and shall receipt the same; and if he refuse or neglect to do so, he shall be liable to the party paying the same for 3 times the amount so paid.

**MCL 600.2546. Certified copies of records, fee per page**

Sec. 2546. Except as otherwise provided by law, in the circuit court, district court, or probate court, for all certified copies, and exemplifications of records, pleadings and proceedings furnished on request, where no special provision is otherwise made, the fee is \$10.00 plus \$1.00 per page.

**MCL 600.2549. Depositions, certified copies, fees taxable as costs**

Sec. 2549. Reasonable and actual fees paid for depositions of witnesses filed in any clerk's office, and for the certified copies of documents or papers recorded or filed in any public office shall be allowed in the taxation of costs only if, at the trial or when damages were assessed, the depositions were read in evidence, except for impeachment purposes, or the documents or papers were necessarily used.

## **B. Circuit Court**

### **MCL 600.2543. Circuit court reporters or recorders; transcripts, fees**

Sec. 2543. (1) The circuit court reporters or recorders are entitled to demand and receive per page for a transcript ordered by any person the sum of \$1.75 per original page and 30 cents per page for each copy, unless a lower rate is agreed upon. For a transcript ordered by the circuit judge, reporters or recorders are entitled to receive from the county the same compensation. The supreme court, by administrative order or court rule, may authorize the payment to circuit court reporters or recorders the sum of \$3.00 per original page and 50 cents per page for each copy for transcripts ordered and timely filed as part of a program of differentiated case management for appeals of civil cases in which the circuit court either grants or denies summary disposition. If a transcript ordered under a program of differentiated case management is not timely filed, the circuit court reporter or recorder is not entitled to receive the increased rate for that transcript.

(2) Only if the transcript is desired for the purpose of moving for a new trial or preparing a record for appeal shall the amount of reporters' or recorders' fees paid for the transcript be recovered as a part of the taxable costs of the prevailing party in the motion, in the court of appeals or the supreme court.

## **C. District Court**

### **MCL 600.8631. Fees for transcripts ordered by the parties or district or circuit judge; recovery as taxable costs**

Sec. 8631. (1) A district court recorder or reporter shall be entitled to receive for a transcript ordered by any person the same fees as provided by law for circuit court reporters or recorders. For a transcript ordered by the district judge or a circuit judge, recorders or reporters shall be entitled to receive from the district control unit the same compensation.

(2) The amount of recorder's or reporter's fees paid shall be recoverable as part of the taxable costs by the prevailing party in a motion or on appeal.

## **D. Court of Claims**

### **MCL 600.6410. Clerks; fees; service of process**

Sec. 6410. (2) For making copies of records, proceedings and testimony and furnishing the same at the request of the claimant, or any other person, the clerk of the court of claims, or any reporter or recorder serving in the court of claims shall be entitled in

addition to salary, to the same fees as are by law provided for court reporters or recorders in the circuit court. No charge shall be made against the state for services rendered for furnishing copies of records, proceedings, or testimony or other papers to the attorney general.

#### **E. Freelance Reporters/Recorders and Court Reporting/Recording Firms**

##### **MCL 600.1491 - Fees and Compensation**

(2.) A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm shall not do any of the following:

(a) Give, directly or indirectly, any incentive, reward, or anything else of value to attorneys, clients, or their representatives or agents, except for nominal items that do not exceed \$25.00 per transaction or \$100.00 in the aggregate per recipient each year.

(b) Charge more than 2/3 of the price of an original transcript for a copy of that transcript.

## **8-04 MAINTAINING FILES/RECORDS**

### **A. Circuit Court**

#### **MCL 600.2137. Photograph of public records; destruction of originals**

Files and records of court of record other than district court

(3) A court of record other than the district court may order the destruction of court reporter or recorder note, tape, recording 15 years after the date that the note, tape, or recording was made for a felony case and 10 years after the date that the note, tape, or recording was made for any other case. One year after a transcript of a note, tape, or recording is filed with the court, the court may order the destruction of the note, tape, and recording. If a transcript of a trial or other proceeding in a court of record other than the district court is ordered other than for filing in the case file, the court reporter or recorder also shall prepare and shall file a certified copy of the transcript in the case file at the expense of the person ordering the transcript unless a copy has been filed with the court or unless the chief judge of the court orders otherwise in an order filed in the case file. As used in this subsection, "felony case" does not include proceedings in a case that occur before arraignment on information or indictment, or in a case in which the defendant is not convicted of a felony.

Files and records of judicial circuit

(4) Except as provided in subsection (3), a judicial circuit of the circuit court may order the destruction of its files and records in a case in which action has not been taken during the 25 years immediately preceding the order of destruction. All of the following procedures shall be followed before the issuance of an order of destruction of circuit court files and records:

- (a) The judgment or decree, if any shall be reproduced pursuant to the records media act, or separated and retained, and the original or reproduction shall be made available for public inspection.
- (b) The circuit court shall offer the files and records subject to the order of destruction to the Michigan historical commission established by Act No. 271 of the Public Acts of 1913, as amended, being sections 399.1 to 399.9 of the Michigan Compiled Laws, or an historical commission created pursuant to Act No. 213 of the Public Acts of 1957, as amended, being sections 399.171 to 399.172 of the Michigan Compiled Laws. If the historical commission accepts the offer within 30 days, the circuit court shall transfer the files and records to the historical commission. If the historical commission does not accept the offer within 30 days, the circuit court shall issue an order of destruction.

**Record Retention and Disposal, General Schedule No. 16, Circuit Court** indicates that untranscribed stenographic notes, tapes, and recordings must be retained 15 years after the date the recording was made on felony cases and 10 years after the date the recording was made for all other cases per MCL 600.2137. Transcribed stenographic notes, tapes, and recordings must be retained 1 year after the date of filing of the transcript per MCL 600.2137.

## **B. District Court**

### **MCL 600.8344. Civil actions, summary proceedings, civil infractions, etc; disposal of documents except docket**

Sec. 8344. Except as provided in this section, not earlier than 6 years after the entry of a judgment in a civil action, including a summary proceeding or a civil infraction action, or in an ordinance violation case or a criminal case in the district court, the court may dispose of documents, records, recordings, and notes related to that action, except the docket, in accordance with a schedule adopted by the state administrative board. The court may order the destruction of notes, tapes, and recordings which have been transcribed and filed with the court 1 year after the date of the filing of the transcript. The docket shall be in a form which shall be adequate to reveal, in summary form, the general nature of the action and judgment.

Thereafter, the docket or a certified microfilm copy or photographic reproduction of the docket shall be the official record of the action and judgment. The validity and enforceability of a judgment are not affected by reason of the destruction of the physical piece of paper upon which the judgment was entered, but the docket itself, or a certified microfilm copy or photographic reproduction of the docket, shall be a complete replacement of the judgment and the records of the action. This section shall apply to judgments of municipal and common pleas courts abolished after January 1, 1969, where the judgment was entered or the action disposed or after January 1, 1969. This section shall be applicable to actions entered in the small claims division of the district court, except that a docket need not be preserved or maintained after destruction of the file.

**Record Retention and Disposal, General Schedule No. 16, District Court** indicates that untranscribed stenographic notes, tapes, and recordings must be retained 10 years after date of recording. Transcribed stenographic notes, tapes, and recordings (does not include videotapes) must be retained 1 year after being transcribed and filed with the court.

## **C. Probate Court**

### **MCL 600.859 Taking of testimony**

(3) The reporter or recorder shall keep sufficient index of the testimony and the court shall keep the index and the original notes for at least 10 years. The reporter or recorder need not transcribe the testimony, except when a transcript is ordered by the court or a party. Except in those cases in which the testimony is transcribed and filed with the record of the case, notes pertaining to a hearing for the admission of any person to a hospital or other place of detention as a mentally ill or developmentally disabled person or as a person with a contagious disease, shall be destroyed only after the discharge of the person from the hospital or facility.

(4) Notes may not be destroyed until after 10 years after the date of the hearing or as provided in subsection (3), whichever is longer.

**Record Retention and Disposal, General Schedule No. 16, Probate Court** indicates that court recorder notes, tapes, and recordings are disposable after 15 years or after discharge or dismissal under the provisions of MCL 600.859.

## **D. Circuit Court - Family Division**

### **MCL 712A.17a. Record of hearing, tape recordings, transcription**

In any case in which a record of the hearing is kept by a recording device, no transcription need be made of the hearing in the absence of a request by an interested party. The tape of the hearing shall be stored as a permanent record of the court.

**Record Retention and Disposal, General Schedule No. 16, Circuit Court** (now for use in Circuit Court Family Division) indicates that court recorder notes, tapes, and recordings are disposable after 15 years under the provisions of MCL 600.859.

## **8-05 FREELANCE REPORTERS/RECORDERS AND COURT REPORTING FIRMS**

### **A. MCL 600.1490 - Definitions**

(1) As used in this section and sections 1491, 1492, and 1493:

(a) "Blanket contract" means a contract under which a court reporter, court recorder, stenomask reporter, or court reporting firm agrees to perform all court reporting or court recording services for a client for 2 or more cases at a rate of compensation fixed in the contract.

(b) "Court reporting firms" means a business entity that provides the services of court reporters, court recorders, or stenomask reporters.

(c) "Owner" means a person who has any ownership interest in a court reporting firm.

### **B. Contractual Agreements**

#### **MCL 600.1490.**

(2) A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm shall not provide or arrange to provide court reporting or recording services if he or she is a relative, employee, attorney, or counsel of any of the parties, or is a relative or employee of an attorney or counsel of any of the parties, without disclosing that familial relationship.

(3) A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm shall not provide or arrange to provide court reporting or recording services if he or she is financially interested in the action.

#### **MCL 600.1491.**

(1) A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm shall not do either of the following:

(a) Enter into or arrange for any financial relationship that compromises the impartiality of court reporters, court recorders, or stenomask reporters or that may result in the appearance that the impartiality of a court reporter, court recorder, or stenomask reporter has been compromised.

(b) Enter into a blanket contract with parties, litigants, attorneys, or their representatives unless all parties to the action are informed on the record in every deposition of the fees to be charged to all parties for original transcripts, copies of transcripts, and any other court reporting services to be provided. This subdivision does not apply to contracts for court reporting or recording services for the court, agencies, or instrumentalities of local units of government, this state, or the United States.

### **C. MCL 600.1491 - Fees and Compensation**

(2.) A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm shall not do any of the following:

(a) Give, directly or indirectly, any incentive, reward, or anything else of value to attorneys, clients, or their representatives or agents, except for nominal items that do not exceed \$25.00 per transaction or \$100.00 in the aggregate per recipient each year.

(b) Charge more than  $\frac{2}{3}$  of the price of an original transcript for a copy of that transcript.

### **D. MCL 600.1492 - Duties**

(1) A court reporter, court recorder, or stenomask reporter shall do all of the following in the performance of his or her duties:

(a) Deliver a transcript or statement of facts to a client or court in a timely manner as determined by law, by court order, or by agreement of the parties.

(b) Produce an accurate transcript or statement of facts.

(c) Produce complete transcripts or statements of facts, unless an excerpt of a transcript is authorized by court order, agreement of the parties, or request of a party.

(d) Before accepting an assignment as an independent contractor or employee to provide court reporting or recording services, request information from the person, employer, or entity engaging his or her services as to the existence and nature of the contract between the person, employer, or entity and the client to confirm that the contract is not a blanket contract in violation of section 1491(1)(b). A person, employer, or entity who is party to a blanket contract and who knowingly provides false information in reply to an inquiry required under this subdivision shall be considered to have committed an act that is grounds for discipline or censure under section 1493. This subdivision does not apply to contracts for court reporting or recording services for the courts, agencies, or instrumentalities of local units of government, this state, or the United States.

(e) Advertise or represent truthfully that he or she is a certified court reporter, court recorder, or stenomask reporter and that only a certified individual will be making the record.

(f) Charge all parties or their attorneys to an action the same price for an original transcript or statement of facts and charge all parties or their attorneys the same price for a copy of a transcript or statement of facts or for like services performed in an action.

(g) Stay "on the record" during a deposition unless agreed to by all parties or their attorneys or unless otherwise ordered by the court.

(2) . . . Rules applicable to court reporters and court recorders are also applicable to court reporting firms. . .

**E. MCL 600.1492 - Registration**

(2) All court reporting firms and court reporters, recorders, and stenomask reporters, including out-of-state court reporting firms and court reporters, recorders, and stenomask reporters, shall register with the state court administrative office by completing an application in a form adopted by the state court administrative office. If a court reporting firm or a court reporter, recorder, or stenomask reporter fails to comply with this subsection, the state court administrative office may assess a reasonable administrative fine that is prescribed by rule of the supreme court, that does not exceed \$500.00, and that is payable to the state general fund.

**F. MCL 600.1493 - Enforcement and Violations of Statute**

(1) The state court administrative office is responsible for enforcing sections 1490, 1491, and 1492 through the court recording and reporting board of review or by other administrative means.

(2) Any violation of section 1490, 1491, or 1492 shall be cause for refusal of the state court administrative officer's board of review to issue renewal certificates to certified court reporters, court recorders, or stenomask reporters. Any willful violation of section 1490, 1491, or 1492 shall be grounds for discipline or censure, or suspension or revocation of certification as a Michigan certified court reporter, court recorder, stenomask reporter, or court reporting firm.

**G. MCL 600.1494 - Applicability**

Section 1490 to 1493 do not apply to official court stenographers, recorders, reporters, or stenomask reporters appointed under chapter 8, 11, or 86 while in the performance of their official duties or to a court stenographer, recorder, or reporter appointed to serve in a municipal court while in the performance of his or her official duties.